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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

FLIR SYSTEMS, INC.,

CASE NO. 10-CV-231-BR

Plaintiff,

v.

**MOTIONLESS KEYBOARD COMPANY,
and Oregon corporation; and THOMAS L.
GAMBARO, an individual,**

**RESPONSE TO ORDER AND NOTICE
OF MOTION TO UNSEAL PROTECTIVE
ORDER IN MOTIONLESS KEYBOARD
V. MICROSOFT, 04-CV-180-AA**

Defendants

Third party Saitek Industries Ltd. (hereafter "Saitek") objects to Thomas L. Gambaro's (hereafter ("Mr. Gambaro")) legal standing, as an individual, to again seek to unseal confidential documents subject to a stipulated protective order issued by Judge Ann L. Aiken in 2004. Any documents in the possession of his attorney James Buchal that were created by Mr. Gambaro and produced to Defendants are obviously already available to Mr. Gambaro. Mr. Gambaro has provided no evidence as to why he requires access to Saitek's documents produced under a Protective Order.

Motionless Keyboard Company, a corporation (hereinafter “MKC”), brought suit for patent infringement of U.S. Patent No. 5,332,322 and U.S. Patent No. 5,178,477 with a representation that these patents were an owned asset of MKC.

After Judge Aiken granted defendants motion for summary judgment of non-infringement and invalidity of U.S. Patent Nos. 5,178,477 and 5,332,322 on May 9, 2005, Mr. Gambaro sought to intervene as a pro se plaintiff (inventor), asserting that the patents were conveniently transferred on May 20, 2005 for One Dollar (\$1.00) by Mr. Gambaro as Director of MKC to Mr. Gambaro, as Inventor by a Sales Agreement only signed by Mr. Gambaro (Exhibit A).

Judge Aiken issued an Order on August 5, 2005 (Exhibit B) denying any intervention by Mr. Gambaro and noted that MKC “owned the ‘477 and ‘322 patents.” Judge Aiken awarded Court costs of \$22,583.35 in the same Order against MKC, which has never been paid.

After the United States Court of Appeals for the Federal Circuit issued a decision, 486 F.3d 1376 (Fed. Cir 2007), Judge Aiken again denied Mr. Gambaro’s motion to cancel the Protective Order and to intervene and affirmed Judge Aiken’s Order of August 5, 2005 of costs to the defendants (Exhibit C).

Mr. Gambaro acknowledged receiving this Order (Exhibit D).

This Court should not reward Mr. Gambaro and his questionable convenient transfer of assets of MKC by permitting Mr. Gambaro to enjoy the rights of MKC in again petitioning a Court to alter a stipulated Protective Order between Defendants and MKC, while sanctioning his now alleged “ownership” of MKC assets.

If the Court grants Mr. Gambaro's request, it should do so only by requiring Mr. Gambaro to pay the outstanding award of costs granted by Judge Aiken of which Saitek is entitled to \$4,689.09 as a matter of equity.

These costs are a proper lien on the only known alleged assets of MKC, namely the patents at issue.

**Respectfully submitted,
SNELL & WILMER LLP**

Dated: October 27, 2010

By: /s/ Joseph W. Price
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PROOF OF SERVICE

The undersigned hereby certifies that on October 27, 2010, true copies of the foregoing **RESPONSE TO ORDER AND NOTICE OF MOTION TO UNSEAL PROTECTIVE ORDER** were served via First Class Mail to:

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Saitek Industries, Ltd.

Executed on October 27, 2010, at Costa Mesa, California.


Sharon Farnus